

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

MAY 21, 2008

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday **May 21, 2008** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 Wet Granite Street, Butte, Montana by Chief Executive Paul Babb.

ROLL CALL

10 present, 2 absent. Commissioner Fay and Moodry were excused.

PRAYER

Commissioner Coleman led the commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF MAY 7, 2008 AND THE SPECIAL MEETING OF MAY 14, 2008

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Minutes of the Regular Meeting and the Special Meeting of the May 14, 2008

ITEMS NOT ON THE AGENDA – SUSPENSION OF THE RULES

It was moved by Commissioner O'Leary that in accordance with the provisions of Subsection 6 of Rule VI of the Rules and Order of Business of the Council of Commissioners of the City and County of Butte-Silver Bow, State of Montana, the Council hereby finds that an emergency condition exists which requires that the Council rules be suspended to allow Communication No. 08-376, Council Resolution No. 08-38 and Council Communication No. 08-377 to be added to the agenda of May 21, 2008 Meeting of the Council. The motion was seconded by Commissioner Lee and carried with a roll call vote of 10 yeas, 0 nays and 2 absent.

**PUBLIC COMMENT ON ANY
PUBLIC MATTER NOT ON THE AGENDA**

Dan Riley complained that on the 18th of April he received a letter from the Noxious Weed Control Board. They mowed my weeds the 1st of May. It was \$382.00. He feels that is excessive.

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb told the council that they had a TIFID Strategic Planning Session last week. They spent a half a day with Janet Cornish and brought the board members and the staff up to speed on the TIFID law. There will be more to come on how we are going to operate the TIFID.

He said they have been getting very good feedback from the resolution that was passed by this body for Mariah's Challenge. Other communities are looking at it for modeling.

Russ-Reid and Company, our lobbyists, will be in Montana and they will be meeting with us tomorrow and we will be talking with field representatives in Butte, and then we will be going to Helena and then finishing up in Missoula. He will give council an update the next time that we have a regular meeting.

On the 29th the NRD Trustee Council will be meeting at 1PM in Helena. Our team will be going over there to make our pitch on behalf of Butte-Silver Bow on what we think should happen with the program and how they are proposing to do things a little bit differently. We have some different ideas that we want to make sure that the Trustee Council hears what we want to see in regards to how we move forward with this program.

SECTION I

**PRESENTATION
COMMUNICATION NO. 08-282**

Ellen Crain, Archives Director, requesting time on the 5/21/08 agenda to make a presentation regarding activities on the Archives Building Project.

Dave Fawcett, Chairman of the Technical Review Committee for the Archives, said he would like to bring the council up to date on where they are at now. The Technical Review Committee is a very large cross-section of Butte-Silver Bow. We have architects (semi-retired), myself who has a large construction background, contractors with a construction background and pretty much all walks of life, Jon Sesso and Jeff Amerman. We meet every week as we move forward. We have looked at other Archives throughout the state. We put out a RFQ and ended up with nine firms that responded. We ended up with A&E Architects out of Missoula. They then realized they would have to move out

while construction was being done. That creates another problem. We need a place to store and a place for the people to operate and the public to go to. We hope to be bidding in August and starting in September.

Jeff Amerman, Finance and Budget Director, said we recently passed a resolution that provided for an intergovernmental loan of up to \$500,000 for the work that would need to be done from now until the bond proceeds come in. We didn't transfer any money over. We won't transfer any money until we need and we'll only transfer what we need. We will have enough funds to get under way and in July 9th of 2008 until early 2009 we will be funded by our first bond sales of 4.5 million dollars. The bond sale will be on July 9th. We don't know when our second bond sale is going to be. It will be sometime in early 2009. It will depend on several conditions. That will take us to the project completion. We will have a second bond sale of up to 3 million dollars based on the needs as assessed at that time. Later on in the agenda tonight you will pass on final reading the resolution to hold the bond sale. On June 4th we will be introducing a resolution awarding the bond sale. On June 18th we will be introducing the bond sale resolution and on July 9th the bond sale will be closed and the funds will be distributed.

Jim McDonald, said they met on March 17th and 18th to work through the programming for the building. To this date we are in a schematic design, we have our consultants working in the building, our structural engineers have been working in the building, Pioneer Technologies doing environmental testing.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote that Communication No. 08-282 be placed on file.

SECTION II

INVITATION FOR BIDS

SEALED BIDS FOR THE NEW HYDRAULIC EXCAVATOR. (Communication No. 08-351) Proof of publication was noted and placed on file.

Three bids were received and opened by Dan Dennehy Asst Public Works Director.

The first bid from Modern Machinery Co., Missoula, MT contained a letter that said due to the restricted nature of the specs for the excavator bid Modern Machinery Co. chooses not to bid.

The second bid from Triple W Equipment, Missoula, MT contained no bid.

The third bid from Western States was a total bid of \$285,539.00.

It was moved by Commissioner O’Leary to refer the sole bid to the Public Works Department for review and report back. The motion was seconded by Commissioner Lee. On the question, Commissioner Frasz commented that something doesn’t add up here with two people turning in bids with no bid and the statement of “hope you enjoy our new caterpillar piece of equipment”. He was wondering if the bid sheets were made out so that there was only one piece of equipment that could bid on it. It is a suggestion that it might be looked over fairly close. Mr. Babb stated that when we send this to the Public Works Department we will have that back in the report. The motion carried with a unanimous verbal vote.

SECTION III

CONSENT AGENDA

- A.**
 - 1. COMMITTEE OF THE WHOLE MEETING REPORT
 - 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
 - 3. JUDICIARY COMMITTEE MEETING REPORT
 - 4. PUBLIC WORKS COMMITTEE MEETING REPORT

B. COMMUNICATIONS

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any “friendly amendments” or segregations. Commissioner O’Leary called for segregation of Item No. 6, Communication No. 08-356 and a “friendly amendment” to Communication No. 08-351 to change the wording of the recommendation to schedule a bid opening and not a public hearing and as long as we’ve done it he recommends that we have that placed on file. Also a “friendly amendment” to Communication No. 08-359 to remove the words “located in TIFID #2” from the title. In the Committee of the Whole Report, page 7, under Section II where it lists the letters of support. Two individuals that gave comments that weren’t listed and that was Ed and Brad Kilgore. On the next page, there was another individual who gave comments under Section III-B. His name was Lionel Winn. Just for the record on these particular public hearings these were not for opponents or proponents. They were simply to gather comments. There should not be any reference to proponents or opponents. Commissioner Shaw made a “friendly amendment” the Finance and Budget Report on page 14, Communication No. 08-252 to change the amount to \$5,756.00.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 4 and Section B, Items 1 through 24 with the exception of the item segregated.

Segregated Communication No. 08-356

George Everett, Executive Director Mainstreet Uptown Butte, requesting Hard Rock Mining Trust Reserve Fund Economic Development Funding for the National Folk Festival.

Commissioner O’Leary said this communication will still go to the Committee of the Whole but he just wanted to give an update on a few items. There was a couple of letter of support placed on your desks. I have visited with George a couple times today asking that a list be created with some specific dollar amounts in order to justify the \$224,000 and he is working on that and we will have that by next week’s meeting. He has visited with Mollie Maffei of the County attorney’s Office having to do with a legal opinion or a comparison to the action we took with regard to the Envision Butte Berkeley Pit project and we just want to know we are on solid legal ground. That will also be ready for you next week. **He then moved to refer Communication No. 08-356 to the Committee of the Whole. The motion was seconded by Commissioner Lee and carried with a unanimous verbal vote.**

Communications added under suspension of the rules

Communication No. 08-376

John Pahut, BSW, Inc Executive Director, request approval to encroach on the sidewalk located at 845 S. Wyoming. This encroachment is necessary because it will provide emergency ADA egress from the building.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the request in Communication No. 08-376 and place on file.

Communication No. 08-377

Mary M. McMahon, Butte-Silver Bow Clerk and recorder, requesting that council approve the electors who have agreed to be election judges for 2008 Primary and General elections..

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the request in Communication No. 08-377 and place on file.

**SECTION IV ORDINANCES AND RESOLUTIONS –
FINAL PASSAGE**

1. COUNCIL RESOLUTION NO. 08-26

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A
PARCEL OF REAL PROPERTY DESCRIBED AS A PARCEL OF GROUND
IN THE RAVIN ADDITION, BY THE CITY AND COUNTY OF BUTTE-
SILVER BOW, STATE OF MONTANA TO THE ADJOINING OWNER

PURSUANT TO POLICIES ADOPTED BY THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 08-26 on final reading and passed having been deemed fully read at length.

2. COUNCIL RESOLUTION NO. 08-28

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE HOMESTAKE MEADOWS PHASE II MAJOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANAN; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 08-28 on final reading and passed having been deemed fully read at length.

3. COUNCIL RESOLUTION NO. 08-31

A RESOLUTION RELATING TO \$4,500,000 GENERAL OBLIGATION BONDS, SERIES 2008; AUTHORIZING THE ISSUANCE AND CALLING FOR PUBLIC SALE THEREOF. It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 08-31 on final reading and passed having been deemed fully read at length.

4. COUNCIL RESOLUTION NO. 08-32

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW COMMUNITY DEVELOPMENT DEPARTMENT FROM THE MONTANA DEPARTMENT OF COMMERCE TO BE EXPENDED IN THE COMMUNITY DEVELOPMENT FUND FOR THE PURPOSE OF INFRASTRUCTURE IMPROVEMENTS TO THE BUTTE EMERGENCY FOOD BANK BUILDING AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 08-32 on final reading and passed having been deemed fully read at length.

SECTION V

ORDINANCES AND RESOLUTIONS – FOR SUSPENSION OF THE RULES

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote of 10 yeas, 0 nays and 2 absent that in accordance with the provisions of Section 6 of Rule VI of the Rules of Business of the Council of Commissioner of the City and County of Butte-Silver Bow, State of Montana, the Council hereby finds that an emergency condition exists which requires that the Council Rules be suspended to allow Council Communication No. 08-376, Council Resolution No. 08-38 and Council Communication No. 08-377 to be added to the Agenda of the May 21, 2008 Meeting of the Council.

1. COUNCIL RESOLUTION NO. 08-35

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION WITH THE DEPARTMENT OF COMMERCE OF THE STATE OF MONTANA, FOR A MONTANA COMMUNITY DEVELOPMENT BLOCK GRANT UNDER THE TERMS OF THE COMMUNITY DEVELOPMENT ACT OF 1974 (42 USC 5301) AS AMENDED. It was moved commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 08-35 on final reading and passed having been deemed fully read at length.

2. COUNCIL RESOLUTION NO. 08-36

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION WITH THE DEPARTMENT OF COMMERCE OF THE STATE OF MONTANA, FOR A MONTANA COMMUNITY DEVELOPMENT BLOCK GRANT UNDER THE TERMS OF THE COMMUNITY DEVELOPMENT ACT OF 1974 (42 USC 5301) AS AMENDED. It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 08-36 on final reading and passed having been deemed fully read at length.

3. COUNCIL RESOLUTION NO. 08-37

A RESOLUTION AUTHORIZING AND APPROVING THE ADOPTION OF CERTAIN DEVELOPMENT CONDITIONS TO BE PERFORMED BY UDAP INDUSTRIES, INC IN CONNECTION WITH THE APPROVAL OF A TAX BENEFIT FOR NEW AND EXPANDING OPERATIONS WITHIN THE CITY-COUNTY OF BUTTE-SILVER AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2

absent to place Council Resolution No. 08-37 on final reading and passed having been deemed fully read at length.

Resolution added under suspension of the rules

4. COUNCIL RESOLUTION NO. 08-38

A RESOLUTION AUTHORIZING THE SALE OF THE NORTH FIVE FEET OF LOT 25 IN BLOCK 30 OF THE WILSON PARK ADDITION AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 08-38 on final reading and passed having been deemed fully read at length.

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to Rise to the Call of the Chair.

The meeting adjourned at 8:25 PM.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER